

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8276 OF 2007

Sunita Laxman Dhumal ... Petitioner

V/s

Central Bank of India ... Respondent

Mr. Vishwanath Talkute for the petitioner.

Mr. S.K.Talsania, Sr.Advocate with Ms.Jyoti Ghag i/by
Thakur Jariwalla & Asso. for the respondent.

**CORAM: J.N. PATEL &
SMT. NISHITA MHATRE, JJ.**

DATED: 27TH NOVEMBER, 2007.

P.C.:

1. Heard.

2. This petition can be disposed of at the stage of admission itself.

3. A short question which arises for our consideration is that, after the caste claim of the of the petitioner that she belongs to Mahadeo Koli has been invalidated by the Scrutiny Committee under the Act, 2003, whether the petitioner's services are protected in view of Government Resolution dated 15.6.1995 ?

4. The petitioner joined the services of the respondent Bank on 5.12.1985 against the vacancy available for Schedule Tribe candidate. On 30.1.1995 the petitioner's caste certificate was referred to the Caste Scrutiny Committee for verification and by order dated 29.3.2001 the Caste Scrutiny Committee found that the petitioner's claim that she belongs to Mahadeo Koli cannot be upheld and her caste certificate was held to be invalid. Probably the Caste Scrutiny Committee made a passing observation that the petitioner may be eligible for protection of service in view of the Government Resolution dated 15.6.1995. The decision of the Committee was challenged by the petitioner by filing Writ Petition No.3085 of 2002. On 25.4.2003 this Court rejected the petition. Thereafter review application was filed wherein the Court disposed of the same by keeping the point regarding petitioner's services open. It is on 6.11.2007 that the respondent Bank served the petitioner by an order of termination of services dated 31.10.2007. This again led the petitioner to file this petition seeking the relief that the impugned order of termination of services of the petitioner requires to be set aside.

5. The learned counsel for the petitioner submitted that the petitioner is entitled for being continued in

service by virtue of Government Resolution dated 15.6.1995 and placed reliance on the decision of the Supreme Court rendered in the case of **Punjab National Bank & anr. v/s Vilas Govindrao Bokade & anr.**, reported in 2007 (3) Mh.L.J. 805, which was decided on 22.3.2007 and, therefore, it is the contention of the learned counsel for the petitioner that the impugned order deserves to be quashed and set aside.

6. On the other hand, the respondent i.e. Central Bank of India, which is a nationalized bank and Central Government Undertaking, has strongly resisted the claim of the petitioner on the ground that the petitioner got employment against the vacancy reserved for Schedule Tribe candidate and her caste claim was invalidated by the Caste Scrutiny Committee whose decision was upheld by this Court, the petitioner cannot get benefit of the Government Resolution passed by the State Government, as the Central Bank of India is not a State Government Undertaking and the Government Resolution dated 15.6.1995 on which the petitioner has placed reliance is not applicable to it.

7. In support of his contention, the learned counsel for the respondent Bank has placed reliance on the decision rendered by the Supreme Court in the case of

Addl. General Manager - Human Resource, Bharat Heavy Electricals Ltd. v/s Suresh Ramkrishna Burde, reported in (2007) 5 SCC 336, which has been decided on 10.5.2007 i.e. subsequent to the decision in the case of Punjab National Bank (supra) wherein the Supreme Court has clearly held in para 16 that the respondent who is also seeking benefit of Government Resolution dated 15.6.1995 issued by the State of Maharashtra, was found not entitled to any benefit as he is not an employee of the Government of Maharashtra but is an employee of the Central Government and he secured the appointment long before i.e. on 31.5.1982 and the Supreme Court set aside the decision of the Bombay High Court which was in favour of the respondent employee.

8. The relevant portion of the Government Resolution dated 15.6.1995 clearly provides that the said Government Resolution is applicable to the employees in Government, Semi-Government like Corporations, Municipalities, Corporations, Zilla Parishads, Co-operative Banks/Government Enterprises and Education Institutions, which resolution was earlier stayed by Government Resolution dated 2/1/1995, has now been vacated and it has been made applicable from 15.6.1995 after giving benefit to certain castes as Special Backward Class. With all humility and command we are

inclined to follow the subsequent view taken by the Hon'ble Supreme Court in the case of **Addl. General Manager-Human Resource, Bharat Heavy Electricals Ltd.** (supra), as the petitioner is not an employee of the State Government and the State Government does not have any power to issue a Government Resolution to protect the services of persons who are not employed in the institutions which are specified in the Government Resolution dated 15.6.1995 and which are within the competence of the State Government. In the case of **Additional General Manager-Human Resource, Bharat Heavy Electricals Ltd. (supra)**, the Supreme Court has taken into consideration its decisions in (i) **R.Vishwanath Pillai v/s State of Kerala, reported in (2004) 2 SCC 105** and (ii) **Bank of India v/s Avinath D. Mandivikar, reported in (2005) 7 SCC 690**, and has clearly expressed that the respondent can get no benefit from the Government Resolution dated 15.6.1995 as he is not an employee of the Government of Maharashtra but an employee of the Public Sector Undertaking.

9. Therefore, the petition is dismissed with no order as to costs.

10. After we pronounced the judgment in the Court, the learned counsel for the petitioner submitted that the

order of termination be kept in abeyance for 15 days. We do not think that such request can be granted particularly in view of the fact that because of the interim orders passed by this Court from time to time in various litigations instituted by the petitioner, the petitioner is continuing in service without being eligible, merely because of the interim order passed by this Court. Therefore, the prayer is rejected.

(J.N. PATEL, J.)

(SMT.NISHITA MHATRE, J.)